

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

OWEN J. ROGAL, D.D.S., P.C.,)	
d/b/a THE PAIN CENTER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:06cv711-VPM
)	[WO]
SKILSTAF, INC.,)	
)	
Defendants.)	

ORDER ON MOTION

This case was transferred to this district from the Eastern District of Pennsylvania on 9 August 2006 (Doc. # 13). On 29 November 2005 (while the case was still pending in Pennsylvania), the defendant filed a Motion to Dismiss the plaintiff's complaint (Doc. # 3). The grounds asserted for the motion were FED. R. CIV. PRO. 12(b)(2) (lack of personal jurisdiction), 12(b)(3) (improper venue), and 12(b)(6) (failure to exhaust administrative remedies). Approximately one week later, the defendant filed a Motion to Withdraw Certain Arguments in its motion, specifically lack of personal jurisdiction and improper venue. The defendant expressed its desire to premise its motion exclusively on the assertion that the plaintiff failed to exhaust administrative remedies.

The court notes that, in addition to the defendant's request to withdraw the first two premises of its motion, those premises have been rendered moot by the transfer of the case to this district.

Accordingly, for good cause, it is

ORDERED that the motion to withdraw is GRANTED. The motion to dismiss will proceed on the sole ground of failure to exhaust administrative remedies.

DONE this 7th day of September, 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE